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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/456,603	12/08/1999	Robert Walter Dmitroca	10981247-1	6669

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EXAMINER

WILLETT, STEPHAN F

ART UNIT	PAPER NUMBER
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2141

DATE MAILED: 11/22/2002

7

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/456,603

Applicant(s)

DMITROCA, ROBERT WALTER

Examiner

Stephan F Willett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 01 November 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

*Title Change*

1. The title change is acceptable.

*Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4, 10, 12-14, 19, are rejected under 35 U.S.C. 103(a) as being unpatentable over Baker et al. with Patent Number 5,226,118 in view of de Vries with Patent Number 5,495,168.
4. Regarding claim(s) 1, 10, 12, 19, Baker teaches a data analysis system. Baker teaches receiving data(col. 5, lines 55-57 and 61-62). Baker teaches determining the range of data (col. 7, lines 14-18 and col. 6, lines 13-19). Baker teaches incrementing a count if data is within a certain as in a histogram, col. 8, lines 41-43. Baker teaches storing the data in an array even if it is outside the range, col. 11, lines 38-42. Baker teaches scaling the range of values to within the data set, col. 14, lines 18-24. Baker teaches the invention in the above claim(s) except for explicitly teaching adjusting or scaling the ranges in a histogram. In that Baker operates to manipulate data sets, the artisan would have looked to the database arts for details of implementing data manipulation and data displays. In that art, de Vries, a related data display

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system teaches "to signal conditioning circuit to appropriately scale the amplitude of the input signal to a viewable level on display device", col. 3, lines 58-60 in order to provide viewable data. de Vries specifically teaches "the interval determined as being the predominate interval of the input signal may then be used manually or automatically adjust the horizontal time base to result in an on-screen waveform of a predetermined or user selected number of cycles", col. 4, lines 55-58 and at 47-52. A histogram that organizes data within the range of values received is taught and inherently a histogram point is centered around a value with a range of values determined around or within a range of said center value. Further, de Vries suggests that "the intervals represented by T1-T3 and T5 is the predominate interval, and is used to determine the time base setting", col. 5, lines 22-24 and this will result from implementing his data analysis. The motivation to incorporate time ranges for all values insures that all data is incorporated into the histogram. Thus, it would have been obvious to one of ordinary skill in the art to incorporate various data divisions as taught in de Vries into the data system described in the Baker patent because Baker operates with graphical data and de Vries suggests that data can be stored, manipulated and displayed in various known ways. Therefore, by the above rational, the above claim(s) are rejected.

5. Regarding claims 2, Baker teaches scaling all data received, col. 12, lines 11-14.

6. Regarding claims 3-4, 13-14, Baker teaches formatting the data for a GUI, col. 13, lines 32-36.

7. Claims 5-9, 11, 15-18, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baker et al. with Patent Number 5,226,118 and de Vries with Patent Number 5,495,168 in view of Fletcher et al. with Patent Number 6,321,264.

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8. Regarding claim(s) 5, 15, Baker-deVries teaches a data analysis system. Baker-deVries teaches the invention in the above claim(s) except for explicitly teaching using data that consists of network delay times for packets. In that Baker-deVries operates to manipulate data sets, the artisan would have looked to the database arts for details of implementing data manipulation and data displays. In that art, Fletcher, a related data display system teaches "a data packet takes a measurable amount of time to travel from client computer system to server", col. 8, lines 17-19 in order to create usable data. Fletcher specifically teaches "data table is used to store entries consisting of the time difference between these time-stamps", col. 9, lines 49-51. Displaying a range of values that consist of time delays for packet transport is taught and inherently said data can be generated with a ping command. Further, Fletcher suggests "display device if Fig. 2 utilized with client computer", col. 7, lines 7-8 will display said generated data. The motivation to incorporate data consisting of time delays insures that relevant data is displayed. Thus, it would have been obvious to one of ordinary skill in the art to incorporate various time delay data as taught in Fletcher into the data system described in the Baker-deVries combination because Baker-deVries operates with graphical data and Fletcher suggests that said data can be displayed on a GUI. Therefore, by the above rational, the above claim(s) are rejected.

9. Regarding claims 7, 11, 17, 20, Baker teaches recalculating based on determined parameters, col. 14, lines 61-62.

10. Regarding claims 8-9, 18, Baker teaches scaling by a factor certain ranges of data, col. 15, lines 39-40.

11. Claims 6, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baker et al. with Patent Number 5,226,118 and de Vries with Patent Number 5,495,168 in view of Siu et al.

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with Patent Number 5,883,924.

12. Regarding claim(s) 6, 16, Baker-deVries teaches a data analysis system. Baker-deVries teaches the invention in the above claim(s) except for explicitly teaching using data to determine jitter. In that Baker-deVries operates to manipulate data sets, the artisan would have looked to the measurement arts for details of implementing data manipulation and data displays. In that art, Siu, a related data display system teaches "the user may specify the histogram range", col. 7, lines 3-4 in order to create usable data. Siu specifically teaches "each bin in the histogram is defined by a range of PCR jitter", col. 7, lines 2-3. Displaying a range of values that consist of jitter for packet transport is taught and inherently said data can be generated with a ping command. Further, Siu suggests "bin boundaries are calculated from the range", col. 7, lines 4-5 to display said generated data. The motivation to incorporate data consisting of jitter insures that relevant data is displayed. Thus, it would have been obvious to one of ordinary skill in the art to incorporate various data categories as taught in Siu into the data system described in the Baker-deVries combination because Baker-deVries operates with graphical data and Siu suggests that jitter data can be displayed on a GUI. Therefore, by the above rational, the above claim(s) are rejected.

**Response to Amendment**

13. The broad claim language used is interpreted on its face and based on this interpretation the claims have been rejected.

14. The limited structure claimed, without more functional language, reads on the references provided. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

15. Applicant suggests "the cited motivation does not provide a desirable reason to combine the teachings", Paper No. 6, Page 6, lines 26-27. The applicant admits Baker already ... displays data in various known ways and Baker displays various data on a GUI and these teachings suggests there are many known ways to display various types of data that are incorporable into Baker's teachings. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

16. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the cited portions of the references and relevant portions of the reference.

17. Applicant suggests "de Vires does not teach scaling the current range and the size of the portions, if the data value is not within the current range", Paper No. 6, Page 7-8, lines 27-1. However, a close explicit teaching is found in Baker with ranges of data values in charts, col. 6, line 13-19. If there is any confusion of the use of the word histogram please bring it forth. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

### **Conclusion**

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is disclosed in the Notice of References Cited. A close review of the references is suggested. The other references cited teach numerous other ways to perform measures and displays, thus a close review of them is suggested.



19. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

20. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephan Willett whose telephone number is (703) 308-5230. The examiner can normally be reached Monday through Friday from 8:00 AM to 6:00 PM.

22. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Rinehart, can be reached on (703) 305-4815. The fax phone number for the organization where this application or proceeding is assigned is (703) 746-7239.

I. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9605.

23. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9605.

sfw



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PRIMARY EXAMINER